

MAY 16 2016

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

MATTHEW J. DYKMAN  
CLERK

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Case No. 1:01-cr-00289-JAP-1  
16CV 466 JAP/GJF

v.

Plaintiff/Petitioner - Appellant,  
USA

Byron Shane Chubbuck ©

Defendant/Respondent - Appellee.

**Motion for Leave to Proceed on  
Appeal Without Prepayment of  
Costs or Fees**

I, Byron Shane Chubbuck ©, the petitioner/appellant in the  
captioned case move this court for leave to proceed in forma pauperis.

In support of this motion, I state that because of my poverty, I am unable to pay the  
costs of said proceedings or give security therefor, I submit the following ~~financial~~  
declaration.

## FINANCIAL DECLARATION

### **Affidavit to Accompany Motion for Permission to Appeal in Forma Pauperis**

I swear or affirm under penalty of perjury that because of my poverty I am unable to pay the docket fees of my appeal or to post a bond for them. I believe I am entitled to a different result than that reached in the district court.

I further swear or affirm under penalty of perjury that the responses which I have made to the questions and instructions below relating to my ability to pay the fees for my appeal are true.

**Instructions.** Please complete all questions in this application and then sign it on the last page. If the answer to any question is "0" or "none," or the question is "not applicable", so indicate by writing "0", "none", or "not applicable (N/A)". If additional space is needed to answer any question or to explain your answer to any question, please use and attach a separate sheet of paper identified with your name, the docket number of your case and the number of the question.

My issues on appeal are: the Johnson vs USA the high  
Supreme Court found ACCA unconstitutional  
Vance. I want to appeal 2255 and successive  
2255 raising the new issue Johnson v USA.  
I will need to file a 2244 for Authorization  
Toona 10th Circuit Court in Denver.  
I need a Public Defender to help me understand  
the laws.

1. Are you or your spouse currently employed? Yes        No ✓
2. If you or your spouse are currently employed, state the name and address of your employer, the length of your employment with that employer, and your monthly gross pay. Gross pay is pay before any taxes or other deductions are taken. If you have more than one employer, please provide the information requested below about the other employer(s) on a separate sheet of paper and attach it to this application.

*N/A*

Yourself:

Name and Address of Employer

*N/A*

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Your Spouse:

Name and Address of Employer

*I'm not married*

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Length of Employment

Years    Months

Length of Employment

Years    Months

Monthly Gross Pay \$ 0Monthly Gross Pay \$ 0

3. If you are currently unemployed, state the date of your last employment and your monthly gross pay during your last month of employment. Gross pay is pay before any taxes or other deductions are taken.

Date of last employment (Month/Year) for yourself N/A; spouse \_\_\_\_\_

Monthly gross pay during last month of employment \$ 0

4. State whether you or your spouse have received money from any of the following sources during the past twelve months, and, if so, the average monthly amount from that source. Adjust any money that was received weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

Did you receive money from any of the following sources during the past 12 months?

Average monthly amount during past 12 months for you and your spouse if applicable.

Amount expected next month

Self-employment

	You	Spouse	You	Spouse
Y/N	\$ _____	\$ _____	\$ _____	\$ _____

Income from real property (such as rental income)

Y/N	\$ _____	\$ _____	\$ _____	\$ _____
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Interest and dividends

Y/N	\$ _____	\$ _____	\$ _____	\$ _____
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Gifts

Y/N	<i>Yes</i>	\$ <u>135</u>	\$ _____	\$ <u>135</u>	\$ _____
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Alimony

Y/N	\$ _____	\$ _____	\$ _____	\$ _____
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Child Support

Y/N	\$ _____	\$ _____	\$ _____	\$ _____
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Retirement income from sources such as social security, private pensions, annuities, or insurance policies

*NONE not applicable N/A*

Y/N    \$    \$    \$    \$   

*None N/A*

Y/N    \$    \$    \$   

Unemployment payments

Public assistance payments such as welfare payments

Other sources of money

(specify: NONE N/A)

TOTAL

\$    \$    \$   

5. State the amount of cash you and your spouse have: \$ zero N/A 0

State below any money you or your spouse have in savings, checking, or other accounts in a bank or other financial institution.

Bank or Other Financial Institution:

*NONE 0 N/A*

Type of Account such as savings, checking, or CD:

Amount you have:

Amount your spouse has:

\$ 0 \$   

\$ 0 \$   

\$ 0 \$

6. State below the assets owned by you and your spouse. **Do not list ordinary household furnishings and clothing.**

<b>Home</b>	<b>Address:</b>	<b>Value:</b> \$ _____
	<i>NA</i>	
	_____	Amount owed on mortgages and
	_____	liens: \$ _____
<b>Other real estate</b>	<b>Address:</b>	<b>Value:</b> \$ _____
	<i>NA</i>	
	_____	Amount owed on mortgages and
	_____	liens: \$ _____
<b>Motor vehicle</b>	<b>Model/Year:</b>	<b>Value:</b> \$ _____
	<i>NA</i>	
	_____	Amount owed: \$ _____
<b>Motor vehicle</b>	<b>Model/Year:</b>	<b>Value:</b> \$ _____
	<i>NA</i>	
	_____	Amount owed: \$ _____
<b>Other</b>	<b>Description:</b>	<b>Value:</b> \$ _____
	<i>NA</i>	
	_____	Amount owed: \$ _____

7. State below any person, business, organization, or governmental unit that owes you or your spouse money and the amount that is owed.

<b>Name of Person, Business, or Organization that Owes You or Your Spouse Money</b>	<b>Amount Owed You:</b>	<b>Amount Owed Your Spouse:</b>
<i>NA</i>	\$ <i>0</i>	\$ _____
<i>NA</i>	\$ <i>0</i>	\$ _____

Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ _____
Charitable contributions	\$ <u>0</u>	\$ _____
Insurance (not deducted from wages or included in home mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ _____
Life	\$ <u>0</u>	\$ _____
Health	\$ <u>0</u>	\$ _____
Auto	\$ <u>0</u>	\$ _____
Other <u>NA</u>	\$ <u>0</u>	\$ _____
Taxes (not deducted from wages or included in home mortgage payments) (specify) <u>NA</u>		\$ <u>0</u>
Installment payments		
Auto:	\$ <u>0</u>	\$ _____
Credit Card: (name) <u>NA</u>	\$ <u>0</u>	\$ _____
Department Store: (name) <u>NA</u>	\$ <u>0</u>	\$ _____
Other <u>NA</u>	\$ <u>0</u>	\$ _____
Other <u>NA</u>	\$ <u>0</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ _____
Payments for support of additional dependents not living at your home	\$ <u>0</u>	\$ _____
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ _____
Other <u>NA</u>	\$ <u>0</u>	\$ _____
<b>TOTAL MONTHLY EXPENSES</b>	\$ <u>0</u>	\$ _____

10. Do you expect any major changes to your monthly income or expenses during the next four months? Yes \_\_\_\_\_ No

If yes, describe.

11. Have you paid an attorney any money for services in connection with this case, including the completion of this form? Yes \_\_\_\_\_ No

If yes, how much? \$ \_\_\_\_\_

If yes, provide the name, address, and telephone number of the attorney:

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Have you promised to pay or do you anticipate paying an attorney any money for services in connection with this case, including the completion of this form? Yes \_\_\_\_\_ No

If yes, how much? \$ N/A

If yes, provide the name, address, and telephone number of the attorney:

N/A

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12. Have you paid anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form?

Yes \_\_\_\_\_ No

If yes, how much? \$ \_\_\_\_\_

If yes, provide the name, address, and telephone number of the person or service:

N/A

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13. Have you promised to pay or do you anticipate paying anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form? Yes        No ✓

If yes, how much? \$ 0

If yes, provide the name, address, and telephone number of the person or service:

N/A

14. How much can you pay each month toward the docket fee for your appeal.

per <sup>month</sup> \$ 10\$ I've been in prison 15 Years.

15. Please provide any other information that helps to explain why you are unable to pay the docket fees for your appeal.

I've been in prison since 2001  
But I can save what little I receive  
to help pay it.

16. State the address of your legal residence:

440 Gen Stilwell NE

Albuquerque NM

87123

Your daytime phone number:

( )

Your age: 49

Years of schooling: 11

Your social security number: N/A I am a Cherokee Nation citizen  
Sovereign → Indigenous

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. 28 U.S.C. § 1746, 18 U.S.C. § 1621.

Date: May 5/2016 Signature: Byron Shane of Chubbuck (C)

**CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_ I sent a copy of  
[date]

the foregoing Motion for Leave to Proceed on Appeal without Prepayment of  
Costs of Fees, to:

\_\_\_\_\_, at \_\_\_\_\_

\_\_\_\_\_, the last known address, by way of  
United States mail or courier.

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Date

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Signature

Byron Shae of Chub buck C  
Byron Shae Chub buck C  
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MS. B. 1. 6. v. 10

PO Box 2000

Brueton Mills  
WV

RECEIVED  
At Albuquerque NM

Office of Clerk of Court  
US District Court  
District of New Mexico

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MATTHEW J. DYKMAN  
Clerk  
333 Lomas Blvd  
Albuquerque, NM  
Pete V. Domenicio court House  
District 28, 10th flr  
MAY 10 2016

13 MAY 2016 HU ET AL

